

Chief Judge Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD ALLEN FABEL,
RODNEY ROLLNESS,
JOSHUA BINDER,
RICKY JENKS, and,
PAUL FOSTER,

Defendants.

NO. CRO6-0041RSL

ORDER CONTINUING TRIAL DATE

ORDER

The Court, having reviewed the records and files herein, enters the following order:

1. The charges, which include RICO (18 USC § 1962), VICAR (18 USC § 1959), Hobbs Act Attempted Robbery (18 USC 1951), Witness tampering (18 USC 1512), and the trafficking in stolen motorcycles (18 USC §§ 2312, 2313, 2321), allege a complex racketeering enterprise encompassing murder, robbery, extortion, and trafficking in stolen motorcycles. The penalties for the crimes charged are severe. Count One (RICO) and Count Two (Conspiracy to Commit RICO) carry maximum penalties of life in prison. Count Three (VICAR- murder) carries a mandatory sentence of life in prison upon conviction.

1 2. Several defense counsel acknowledge the need for a continuance. Counsel
2 for Rodney Rollness and Joshua Binder request a continuance of 60 days; counsel for
3 Ricky Jenks requests a continuance of 90 days. Defendant Paul Foster, who is out of
4 custody, and whose case has been severed from the co-defendants, does not oppose a
5 continuance of the trial date. Defendant Fabel objects to any continuance of his trial date.

6 3. Under the Speedy Trial Act, the following periods of delay are excluded in
7 computing the time within which the trial of an offense must commence: “[D]elay
8 resulting from any pretrial motion, from the filing of the motion through the conclusion of
9 the hearing on, or other prompt disposition of, such motion.” *18 USC 3161(h)(1)(F)*. A
10 number of pretrial motions have been filed in this case, many of which are still pending,
11 and several of which require evidentiary hearings. The new trial date would fall within
12 this excludable time period.

13 4. Under the Speedy Trial Act, when the interest of justice mandates a
14 continuance as to one defendant, a district court may continue the trial date, for a
15 reasonable period of time, as to the joined co-defendants. *18 USC § 3161(h)(7); United*
16 *States v. Messer, 197 F.3d 330, 338 (9th Cir. 1999)*.

17 5. For the reasons set forth above, the Court finds that the trial continuance is
18 reasonable as to all defendants. Without rendering a final decision on any severance
19 motions that have been filed, a continuance as to all defendants ensures that all of the
20 defendants charged with RICO, and properly joined, will be tried jointly, thereby
21 effectuating the purposes of § 3161(h)(7) and conserving substantial judicial resources.
22 The continuance to March 5, 2007, ensures that the defendants in pretrial detention will
23 be tried within 13 months of their arrest.

